

Investigation Report

File No.	ACMA2022/677-22
Carriage service provider	Exetel Pty Ltd
ACN	097 986 546
Scope of investigation	Compliance with clause 6.7.1 of the Telecommunications Consumer Protections Code C628:2019

Summary of findings

1. The Australian Communications and Media Authority (**the ACMA**) finds that Exetel Pty Ltd (**Exetel**) contravened clause 6.7.1 of the Telecommunications Consumer Protections Code C628:2019 (**the TCP Code**) on 18 occasions between 7 December 2021 and 23 August 2022 by failing to give 12 customers at least 5 working days' notice prior to suspension and/or disconnection of their telecommunications service for credit and/or debt management reasons, in circumstances where clause 6.7.1(a) did not apply.

Background

2. The TCP Code is registered under Part 6 of the *Telecommunications Act 1997* (**the Act**) and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications products to residential and small business consumers.
3. Exetel is an Australian company that provides telephone and internet services, which are listed carriage services, to residential and small business customers. It is therefore a CSP within the meaning of section 87 of the Act and is a supplier for the purposes of the TCP Code.
4. On 21 September 2022, the ACMA issued Exetel with a notice under subsection 521(2) of the Act (**the Notice**). The Notice required Exetel to provide information and documents relevant to its compliance with the TCP Code including copies of reminder notices and notices issued to customers that related to a decision by Exetel to restrict, suspend or disconnect a customer's telecommunications service due to credit and/or debt management reasons, most recently before 31 August 2022.
5. After considering the information provided by Exetel in response to the Notice, the ACMA commenced an investigation under Part 26 of the Act into Exetel's compliance with clause 6.7.1 of the TCP Code.
6. On 17 February 2023, the ACMA sent its preliminary findings report to Exetel and invited it to respond. On 3 March 2023, Exetel provided the ACMA with a submission in response.
7. In the course of the investigation, the ACMA examined information obtained from Exetel in response to the Notice, and Exetel's submission of 3 March 2023 in response to the preliminary findings.

Final findings and reasons

8. Having assessed the information before it, the ACMA is of the view that Exetel contravened clause 6.7.1 in the TCP Code. Details of the contraventions are set out below.

TCP Code – Clause 6.7.1 – Prior notice of restriction, suspension or disconnection action

9. Under clause 6.7.1 of the TCP Code, suppliers must give customers at least 5 working days' notice prior to the restriction, suspension or disconnection of the telecommunications service for credit and/or debt management reasons, unless clause 6.7.1(a) applies.
10. Clause 6.7.1(a) states that a supplier may only restrict, suspend, or disconnect a telecommunications service for credit and/or debt management reasons without first informing the customer if:
 - a. the supplier assesses that the customer or the account status presents an unacceptably high credit risk to the supplier;
 - b. the supplier reasonably suspects fraud or attempted fraud; or
 - c. the customer has nominated to the supplier a restriction point and the customer has reached that restriction point.
11. The Notice limited the scope of information and documentation to be provided by Exetel to 2 cohorts of 10 customers each that Exetel disconnected for credit and/or debt management reasons most recently before 31 August 2022, where clause 6.7.1(a) did not apply.
12. The overarching requirement in clause 6.7 is that suppliers must ensure customers are given adequate notice regarding a decision by the supplier to restrict, suspend or disconnect their telecommunications service for credit and/or debt management reasons. It is the ACMA's view that to achieve compliance with clause 6.7.1 the supplier must not take any action to restrict, suspend or disconnect the service until the required 5 working days' notice period has elapsed.
13. In its submission of 3 March 2023, Exetel did not contest any of the preliminary findings contained in the ACMA's preliminary findings report. However, in relation to the definition of 'at least 5 working days' notice' as set out in the TCP Code, Exetel advised that in a number of cases it incorporated the day of the proposed disconnection date in the 5 working day period. Exetel further advised that it considered that this was an acceptable interpretation of the 'at least 5 working days' notification requirement, with disconnection occurring on the fifth day after the letter of notification was issued in some cases.
14. In light of the significant impact on a customer of restricting, suspending, or disconnecting their service, the ACMA is of the view that it is appropriate to adopt an interpretation of clause 6.7.1 that is most beneficial to consumers whom the TCP Code is intended to protect.
15. The ACMA therefore maintains the view that the requirement to give 5 working days' notice prior to the relevant action excludes both the date of issue of the notice and the date of the relevant action (that is, the restriction, suspension or disconnection).
16. Based on the ACMA's assessment of Exetel's response to the Notice against the requirements under clause 6.7.1 of the TCP Code at **Attachment A**, and having regard to Exetel's submission, the ACMA finds that Exetel failed on 18 occasions between 7 December 2021 and 23 August 2022 by failing to give 12 customers at

least 5 working days' notice prior to suspension and/or disconnection of their telecommunications service for credit and/or debt management reasons, in circumstances where clause 6.7.1(a) did not apply.

Compliance with clause 6.7.1 of the TCP Code

Assessment				
Customer	A. Date of suspension (S) or disconnection (D) notice	B. Actual date customer's service was suspended or disconnected	Did Exetel provide the customer at least 5 working days' notice prior to the suspension or disconnection of the telecommunications service for credit and/or debt management reasons as required clause 6.7.1?	ACMA references
Key: <ul style="list-style-type: none"> Financial Hardship (FH) Non-Financial Hardship (Non-FH) 				
1: Customer Number [REDACTED] (FH)	(S) 10/05/2022	(S) 16/05/2022 – This is 3 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93509 ED22/93508 ED22/93493
2: Customer Number [REDACTED] (FH)	(S) 01/12/2021	(S) 7/12/2021 – This is 3 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93532 ED22/93493
1: Customer Number [REDACTED] (Non-FH)	(S) 22/07/2022 (D) 16/08/2022	(S) 28/07/2022 – This is 3 clear working days from date of notice. (D) 23/08/2022 – This is 4 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given. (D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93513 ED22/93510 ED22/93672
2: Customer Number [REDACTED] (Non-FH)	(S) 06/07/2022 (D) 01/08/2022	(S) 12/07/2022 – This is 3 clear working days from date of notice. (D) 08/08/2022 – This is 4 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given. (D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93541 ED22/93537 ED22/93672

Assessment				
Customer	A. Date of suspension (S) or disconnection (D) notice	B. Actual date customer's service was suspended or disconnected	Did Exetel provide the customer at least 5 working days' notice prior to the suspension or disconnection of the telecommunications service for credit and/or debt management reasons as required clause 6.7.1?	ACMA references
Key: <ul style="list-style-type: none"> Financial Hardship (FH) Non-Financial Hardship (Non-FH) 				
3: Customer Number [REDACTED] (Non-FH)	(S) 15/07/2022 (D) 15/08/2022	(S) 21/07/2022 – This is 3 clear working days from date of notice. (D) 22/08/2022 – This is 4 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given. (D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93571 ED22/93576 ED22/93672
4: Customer Number [REDACTED] (Non-FH)	(S) 15/07/2022 (D) 25/07/2022	(S) 21/07/2022 – This is 3 clear working days from date of notice. (D) 01/08/2022 – This is 4 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given. (D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93589 ED22/93586 ED22/93672
5: Customer Number [REDACTED] (Non-FH)	(D) 01/08/2022	(D) 08/08/2022 – This is 4 clear working days from date of notice.	(D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93596 ED22/93672
6: Customer Number [REDACTED] (Non-FH)	(S) 21/07/2022 (D) 15/08/2022	(S) 27/07/2022 – This is 3 clear working days from date of notice. (D) 22/8/2022 – This is 4 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the rest suspension not to occur for at least 5 working days after the supplier's notification has been given. (D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93603 ED22/93604 ED22/93672

Assessment				
Customer	A. Date of suspension (S) or disconnection (D) notice	B. Actual date customer's service was suspended or disconnected	Did Exetel provide the customer at least 5 working days' notice prior to the suspension or disconnection of the telecommunications service for credit and/or debt management reasons as required clause 6.7.1?	ACMA references
Key: <ul style="list-style-type: none"> Financial Hardship (FH) Non-Financial Hardship (Non-FH) 				
7: Customer Number [REDACTED] (Non-FH)	(S) 13/07/2022	(S) 19/07/2022 – This is 3 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93617
8: Customer Number [REDACTED] (Non-FH)	(S) 01/07/2022	(S) 07/07/2022 – This is 3 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93629
9: Customer Number [REDACTED] (Non-FH)	(S) 05/07/2022 (D) 02/08/2022	(S) 11/07/2022 – This is 3 clear working days from date of notice. (D) 09/08/2022 – This is 4 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given. (D): No. The disconnection occurred 4 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the disconnection not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93644 ED22/93648 ED22/93672
10: Customer Number [REDACTED] (Non-FH)	(S) 06/07/2022	(S) 12/07/2022 – This is 3 clear working days from date of notice.	(S): No. The suspension occurred 3 clear working days after the notice was given, in contravention of clause 6.7.1 which requires the suspension not to occur for at least 5 working days after the supplier's notification has been given.	ED22/93660